

1933.

Department of Land Revenue

OFFICE Board of RevenueSTATION Madras.Mis No. 3419
3419

Dated 9-12-33

A 377/33

To whom sent

Date

Initial

Given for copying

Copied

Examined 9.2.4

Signed

Given for despatch

Despatched 14

Indexed

To be destroyed on

Pages in the file

(SUBJECT.)

Village officers - (S. Kanara) - Kankal Tu -
 Belurwai Ure - Headman - Appointment -
 Padmanabha Shetty - Appeal remanded to
 Collector for fresh enquiry - Further reference
 from the Collector - Instructions issued.

Ref. A--1-3120--33.

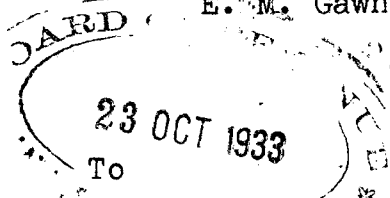
A3779

South Kanara Collector's Office,
Camp: Kumbala, dated 18th October 1933.

From

E. M. Gawne, Esq, I.C.S.,

Collector of South Kanara.



The Secretary to the Board,

Land Revenue & Settlement,

M a d r a s.

S i r,

Village Officers--(South Kanara)--Karkal Taluk--Beluvai
village--Headman--appointment--Padmanabha Shetty--Appeal--re-
manded to Collector for fresh enquiry--further instructions soli-
cited.

(T) Ref: B.P.Mis. No.2288/33 dated 14th August 1933.

pp 5-6 C.F. A(T) As directed by the Board in para 1 of its Proceedings
quoted above, I asked the Sub Collector to test Padmanabha Shetty
orally. The Sub Collector examined him and found that though
his literacy was good he was unable to answer questions correct-
ly about the powers and duties of a headman. It is now re-
ported that Padmanabha Shetty appeared for the written examina-
tion last year and passed only in one part viz. Village Sanita-
tion and that he had therefore entered for the examination in the
other part held early this month. The Sub Collector says that
Padmanabha Shetty was going to brush up his knowledge in time
for the written test and was unprepared for the oral test to
which he was subjected without due notice. The Sub Collector
raises the question whether it is fair to make a man undergo
an oral test when he has not prepared himself for it and suggests
that the result of the written examination may be left to decide
his ultimate fate. In this connection, two points arise for
consideration viz. (1) whether a person declared to have failed

in the written examination can claim thereafter the oral test and
(2) whether time for preparation should be allowed to a candidate
for oral test.

pp 6-7 cr 2. The Board has pointed out in para 2 of the B. P. its ruling of 1919 that a nearer heir must be given the benefit of the oral test before he is passed over. This would be an additional reason to appoint Vittal Shetty, who is the nearer heir and senior to Padmanabha Shetty. Vittal Shetty has passed the oral test and contested the appointment of Padmanabha Shetty from the first; he only resigned in favour of Narayana Shetty (Board's counter-petitioner) because he is senior in the family. This Vittal Shetty is the person who was originally appointed by the Sub Collector after an oral test and whose appointment had been cancelled by the Collector in appeal. As Vittal Shetty is a nearer heir than Padmanabha Shetty, I submit that it is convenient in these difficult circumstances to hold that Padmanabha Shetty has not passed the oral test. I have therefore decided that he has not passed it, as the Sub Collector has not definitely declared him fit but has suggested that the result of the written examination may be allowed to decide his fate. The question now is who should be appointed.

3. I doubt my authority to appoint either Narayana Shetty or Vittal Shetty, because on the one hand the Board has cancelled the appointment of Narayana Shetty and on the other, rejected the claims of Vittal Shetty, though he is senior to Padmanabha Shetty and held that the contest lay between Padmanabha Shetty and Narayana Shetty. I request orders as to who may be appointed.

4. As I intend to issue a District Standing Order for the guidance of the subordinate officers in the matter of the oral test, I take this opportunity of soliciting instructions on the following points:-

(i) Whether a person declared unfit by a Divisional Officer in an oral test can ask for it again when another vacancy arises.

Recently, there was an instance in this district in which a candidate for a Potalil's post who failed some years back in the oral test by one Revenue Divisional Officer was declared fit this year by another Revenue Divisional Officer. My personal opinion

⊗
(4)

p 25 CF
7 (P)

pp 17-21
CF 7 (P)

para 40u
p 89 CF 7
(P)

para 30u
pp 88-89 7
(P)

is that giving of the Oral test more than once must be discouraged as a matter of administrative convenience and that a candidate who has once failed in an oral test should then pass the written test, if he wants to show that he is efficient.

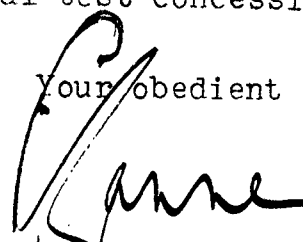
(ii) Whether a candidate should be allowed preparation time to satisfy the oral test.

(iii) Whether a person declared to have failed in the written examination can ask for an oral test with the prospect of being declared fit. Points (ii) & (iii) arise in connection with the present case and have been raised in para (1) of this letter. Regarding point (iii), it seems to me that to give a concession of oral test to a candidate who has failed in the written examination would be to nullify the results of a written examination and would tend to diminish the importance of this examination.

(iv) Whether ^athe Collector can lay down the general lines on which an oral test should be conducted to test the fitness of a candidate.

The Oral test has generally come to be looked upon as more or less plain-sailing and the candidates do not take any pains to acquaint themselves with the duties of the office. There seems to be no use of appointing persons without any rudimentary knowledge of the Village Officers' duties and then finding fault with them for their acts of ignorance. The only way to keep out unsuitable men will be by making the oral test a real test of the candidates fitness by the issue of executive instructions laying down some standard for the Oral test. I may add that these difficulties have hardly arisen till now since the --
(H) Board's orders of 1919 making the claiming of the Oral test a matter of right and not a concession, were completely lost sight of. I would also suggest that the advisability of amending the Act to limit the oral test concession may be considered.

Your obedient servant,


Collector.

Draft for approval. 5

Village Officers - (South Kanara) - Karkal
taluk - Beluvai village - Headman -
Appointment - Padmanabha Shetty - Appeal
remanded to Collr. for fresh enquiry -
Further reference from the Collr. -
Instructions issued.

B.P. 1616 Mis. dated 10-6-33

B.P. 2288 Mis. dated 14-8-33

A.3779/33

Resolution (Mis.) No. 3419 d/ 9 -12-33.

The Board observes that the force of the order contained in B.P. Mis.1616 dated 10-6-33 has not yet been correctly appreciated, and that in particular the last sentence of paragraph 3 which runs "the contest lies between Narayana Shetty and Padmanabha Shetty" has not been properly construed.

2. To remove any possible misconception the facts which led up to the order in question may be recapitulated. There were 9 original applicants for the office. The R.D.O., selected Vittal Shetty. Narayana Shetty appealed against this order, none of the other applicants being made parties to the appeal. Though the other applicants may have acquiesced in the appointment of Vittal Shetty they did not necessarily acquiesce in the appointment of Narayana Shetty, and one of them, Padmanabha Shetty appealed to the Board. The statement that "the contest lies between Narayana Shetty and Padmanabha Shetty in the B.P. in question refers solely

(P)

(T)

p. 1-3 CF.

(P)

p. 89 CF. A(P)

p. 89 CF. A(P)

to the proceedings before the Board. It does not affect the claims or rights of any person who has not participated in proceedings before the Board. The Collr. therefore in making the fresh enquiry ordered should consider the claims of all the other applicants. He is only bound by the Board's order as far as it affects the claims of Narayana Shetty and Padmanadha Shetty inter se.

3. As regards the scope of the oral examination, which may replace a written examination in the case of headmen the Collr's attention is invited to (i) the last but one sentence of the Govt. Memo., No. 585-C/14-2, Rev. dated 21-3-14, (ii) para. 6 of the Board's report No. 725-G~~E~~/14-2, dated 29-9-14 and (iii) G.O. No. 55 Rev. dated 7-1-1915 communicated with B.P. 55 Press dated 18-2-15.

It is clear from these that the oral test is intended to see whether a candidate possesses sufficient literary education to perform the duties of a headman. A candidate subjected to the oral test must be able to read, write and must possess average intelligence to perform the duties of the office but he need not be made to undergo a stringent test as in the case of a written examination and his knowledge of the powers and duties of a headman need not be tested.

4. With reference to para. 4 of the Collr's reference the Board thinks that it is not desirable to attempt to define the scope of the discretion vested in a Rev.

p. 6 of the printed R.P in (L)

p. 8 of do

p 20 of do

Flag (L).

pp 2-3 C.F.

2

- 3 -

a Revenue Divisional Officer, who makes use of an oral test.

168 12/33
4/12/33
26/12/33
aw
8.12.33
18/12/33

To the Collr. of South Kanara.

Note File

M₃
S
A.S. (L.R.)

Village Officers - (S. Kanara) -

Karkal Taluk - Belurwai Vge - Headman

Appointment - Padmanabha Shetty
appeal remanded to the collector
for fresh enquiry - Further reference
from the collector.

H. 3779 / 33 - 31.

To Asst. Secretary

pp 1-2-ct.

Paras 1 to 3 of the collector's refce.

The collector asks for instruction whether Padmanabha Shetty whose claim was taken up by the Board can be appointed village headman when the sub collector examined him orally and found his literacy to be good though he was unable to answer questions correctly about the powers and duties of a headman and whether in view of the fact that Padmanabha Shetty had appeared for the written test last year and passed in 'Village Sanitation' only and appeared for the other part in the examination held early this month he may be conveniently taken to have failed in the oral test. The point for consideration is

to be given for the candidates.

Attention is invited to (i) the

portion marked 'A' of the Govt Memo-
randum,

p. 6 CF of (L) Govt
(Printed B.P. in the
beginning)

(ii) para 6 of the Board's report in the
matter &

p. 8 CF of (L) of do

(iii) G.O. No. 55 Rev. of 7-1-15.

p. 20 CF of (L) of do

From these it is clear that the
object of the oral test in the
place of the written examination
is to secure the most suitable

B.P. 58 Press
18.2.15

Candidate possessing wealth and
public Confidence and so the rule
was modified to provide for greater
elasticity in selection. The purpose

p. 20 CF of (L)

of the oral test is to see whether
the candidate possesses sufficient

do.

literary education to perform the
duties of a headman. This shows

Rule 21 on p. 874

B.S. Vol III

that the candidate must be able
to read & write and have average
intelligence to perform the duties of

the office. Hence the oral test need

as is the case in a written examination

not be a stringent one and need
a candidate's

not test his memory or knowledge

of the powers and duties of a

1/2
1.11.17

p 1 C.F. Padmanabha Shetty's literacy is good. If so he is eligible for appointment as a head man.

1.4.33
p 89 g (P) It is for orders if the collector may be asked to appoint him. Hital Shetty is out of Cant and his claim need not be considered.
Para 4 of the collector's reference

In view of the notes on the previous page discussing the scope of the oral test, it seems difficult to lay down hard and fast rules as regards the several questions raised by the collector. His attention may be directed to the orders referred to on p 2 N.F. so that he may issue a ^{dt} standing order in accordance with the spirit of the above orders.

p. 3 C.F. The collector suggests the advisability of amending the Act. It is submitted that there is no necessity to amend the Act. If at all amendments are considered necessary, rule 21 of the rules made under Act III of 1895 has to be amended for orders.

p 874 of B.S.O. Vol III.
1.4.33

K.S.

27/10/33
28/10/33

S

AS

How do you propose that the dilemma propounded by the C in para 3 of his letter should be solved?

Ans
B.K. 33

AS (LR)

Vittal Shetty is out of contest as he did not appeal against the collector's order cancelling his appointment. The contest therefore lies between Narayana Shetty and Padmanaba Shetty. The Board held that Padmanaba Shetty being the nearer heir has ^{better} ~~superior~~ claims to the office than Narayana Shetty. As the Board had no information whether Padmanaba Shetty was qualified to hold the office the Cdr was asked to subject him to an oral examination & to appoint him if found fit. The Cdr's report ^{shows} that Padmanaba Shetty possesses

p 88 of (P)
portion marked A

p 6 of (T)
portion marked B

h107

sufficient literary education to carry on the duties of the office. He should therefore be considered to be qualified for the office. In these circumstances the Collr has no authority to appoint Narayana Shetty. Nor can he now go back to Vittal Shetty as he has not ~~been~~ chosen to prefer an appeal against the Collr's order. The Collr may be asked to appoint Padmanaba Shetty

h2800

S

The S.C. has found that Padmanabha Shetty is sufficiently literate and that is all that is required. A.S.'s suggestion may be adopted.

As regards the general question raised by the C. as to the nature of the oral examination Rule 21 on p 874 B80 Vol III seems to me to be quite clear and explicit and to need no amendment.

Aw

10-11.

P. 11.3

P.F. 10

The Collector seems to have misunderstood completely the scope of the original order contained in B.P.Mis. 1616/10-6-33, especially the last sentence of paragraph 3 which runs 'the contest therefore lies between Narayana Shetty and Padmanabha Shetty'. This remark of course applies only to the proceedings then pending before the Board. It does not in any way ~~g~~ fetter the discretion of the Collector in making the fresh enquiry directed to be made in paragraph 4 of the Order and in passing such orders as the result of such enquiry as the Collector thinks fit to pass.

(P)

p 89^{CF} of (P)

do

Also the Collector seems to have misunderstood the remarks in the original order about giving notice. As I understood the case when passing the original order four people were parties to the original ~~order~~ proceedings before the Revenue Divisional Officer viz., Vithal Shetty, Narayana Shetty, Padmanabha Shetty and Kunhappa Shetty. Of these the Revenue Divisional Officer selected Vithal Shetty. Against this order Narayana Shetty appealed without making the other two persons parties to the appeal. The Collector allowed the appeal without giving notices to the other two parties, who, of course, even if they had acquiesced in the appointment of Vithal Shetty might be unwilling to acquiesce in the appointment of Narayana Shetty. Actually Padmanabha Shetty was not willing to acquiesce in the appointment of Narayana Shetty. Hence the interference of the Board.

p 31^{CF} of (P)

Siddhu Shetty
Koti Shetty
Mahabala Shetty
Sridhana Shetty
Vodipm Shetty
p. 25^{CF} of (P)

p 17-21^{CF} of (P)

Draft explaining the position to the Collector

(first verifying that my presumption that the four persons specified were parties to the proceedings before the Revenue Divisional Officer and that no others were parties to those proceedings) and explaining the scope of the oral examination, which may replace a written test in the case of a headman and tell the Collector that it is not desirable to attempt to define the scope of the discretion vested in a Revenue Divisional Officer, who makes use of an oral test.

J.
21.11.33

f2.

3719

To Asst. Secretary

Draft submitted for approval.

S
A.S. (L.R.)

(2). Member's orders in brackets above are verified. In the enquiry which was made before the R.D.O passed orders, statements were taken from nine persons. Their names have been noted in para 2 of the draft.

K.S.
23/11/33

1/2
27/11/33

S

A.S. Please have a typed draft prepared embodying para 1 and 2 as redrafted by me and sign

Ans
2.12.

Ans
8.12.

To Asst. Secretary

S
AS. (f.R.) With reference to the Secretary's
order on p. 8 N.F. a typed copy of the
draft as revised by him is
submitted. Draft may issue.

K.S. ms
4/12/33 51233

26/12/33

-S